

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RYAN, LLC, §
§
Plaintiff, §
v. § Civil Action No. _____
§ JURY TRIAL DEMANDED
RYAN & COMPANY, P.C., §
§
Defendant. §

**PLAINTIFFS' ORIGINAL COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Plaintiff Ryan, LLC, ("Ryan"), files this Original Complaint for Damages and Injunctive Relief complaining of the actions of Defendant Ryan & Company, P.C. ("Defendant") and would show this Honorable Court as follows:

I.

PARTIES

1. Plaintiff Ryan, LLC, is a Delaware limited liability company whose principal place of business is in Dallas, Texas.
2. Defendant Ryan & Company, P.C. is a Texas corporation whose principal place of business is in Dallas, Texas. It may be served by process upon its registered agent, Derek Ryan, at 5440 Harvest Hill Road, Suite 220, Dallas, Texas 75240.

II.

JURISDICTION AND VENUE

3. This action arises under the Lanham Act, 15 U.S.C. § 1125 *et seq.* The Court has jurisdiction pursuant to 28 U.S.C. § 1338(a) and §1367(a).

4. Venue is proper in the United States District Court for the Northern District of Texas, Dallas Division, under 28 U.S.C. §1391 (b) because Defendants do business in this District and it is a judicial district in which a substantial portion of the events giving rise to the claims herein occurred and in which witnesses reside and much of the evidence exists.

III.

FACTUAL BACKGROUND

5. Ryan began operating as Ryan & Company in Dallas, Texas in 1993. By 1996, Ryan was the 19th largest CPA firm in the Dallas/Fort Worth metro area and by 2001 it had over 180 employees and more than \$24 million in annual revenue and was the largest independent state and local tax consulting firm in the United States. For many years Ryan operated exclusively as Ryan & Company and until August 29, 2009, it owned a U.S. Trademark Registration for the mark RYAN & COMPANY under Registration No. 2,676,976 (the “Mark”). Although Ryan has now officially changed its company name to Ryan, LLC, the mark RYAN & COMPANY has extensive residual goodwill. For instance, Ryan continues to receive mail addressed to Ryan & Company and many of its legal documents are still in the name of Ryan & Company.

6. Ryan’s clients include companies in the Dallas/Fort Worth Metroplex and across the United States and it has offices throughout the United States. Its corporate headquarters are located in Three Galleria Tower in North Dallas, adjacent to the Galleria Mall.

7. On information and belief, Derek Ryan, Defendant’s principal, began an accounting firm with his wife which they formed under the name Ryan & Ryan, PC in 2001. This entity was forfeited in 2004 at which time they formed Ryan & Ryan, LLP. Upon information and belief, shortly after Ryan changed its company name from Ryan & Company to

Ryan, Inc. in October 2007 and then to Ryan, LLC in November 2010, Derek Ryan formed a new entity which is the Defendant. Defendant claims to provide personalized financial guidance to, among others, local businesses, basic tax management and accounting services as well as audits, financial statements, and financial planning.

8. In February of 2012, Ryan became aware of the entity called Ryan & Company when a representative of Ryan saw an advertisement for Defendant in the elevator of Three Galleria Tower where Ryan is located. That advertisement was very similar in color, font and look of the logo of the Ryan & Company that used for years up until the name change in October 2007. Upon information and belief, although Defendant was formed in 2009, it did not begin publicly using the name, such as on its website, and perhaps elsewhere, until early 2011.

9. Ryan and Defendant's services are similar and their channels of trade overlap. For example, Defendant's website lists, among other services, "tax management services", "forensic accounting" and "international taxation", all services that Ryan provides.

10. Defendant intentionally, knowingly and willfully sought to cause confusion, mistake and deception and trade on the good will of Ryan not only changing its name to Ryan & Company but by advertising using the name Ryan & Company in the office building where Ryan is located and elsewhere.

IV.

CAUSES OF ACTION

COUNT ONE: UNFAIR COMPETITION UNDER THE LANHAM ACT

11. Plaintiff hereby incorporates the allegations in paragraphs 1-10 as if fully set forth herein.

12. Defendant's actions constitute unfair competition in violation of 15 U.S.C. §1125(a)(1).

13. As a result of Defendant's activities, Defendant has caused and will continue to cause irreparable harm to Ryan for which Ryan has no adequate remedy at law for relief from Defendant's wrongful conduct. Accordingly, Ryan is entitled to injunctive relief pursuant to 15 U.S.C. § 1116 and the recovery of Defendant's profits, damages sustained by Ryan and cost of court pursuant to 15 U.S.C. §1117.

14. Further, the activities of Defendant are intended to, and are likely to, lead the public to conclude, incorrectly, that the infringing uses of the Mark described in this Complaint are sponsored by, associated with, or affiliated with Ryan when they are not, all to the damage and harm of Ryan. Defendant's activities constitute deliberate infringement of the Mark in violation of the Lanham Act, entitling Ryan to damages.

15. Defendant's actions have been with full knowledge of Ryan's rights and with the intent to trade on Ryan's goodwill in the Mark, thus making this an exceptional case under 15 U.S.C. §1117(a). Accordingly, Ryan is entitled to recover its reasonable and necessary attorney's fees.

COUNT TWO: COMMON LAW UNFAIR COMPETITION

16. Ryan incorporates the allegations in paragraphs 1 through 15, above, of this Complaint as fully set forth herein. Defendant's actions described above constitute unfair competition under Texas common law.

17. As a result of Defendant's wrongful conduct, Ryan is entitled to injunctive relief and damages to be proven at trial.

JURY DEMAND

18. Ryan requests a trial by jury of all claims.

PRAYER FOR RELIEF

WHEREFORE, Ryan prays that it have judgment against Defendant for the following:

- (1) A decree that Defendant's use of Ryan & Company is likely to cause confusion and mistake as to Defendant's affiliation, connection, and association with Ryan and as to the origin, sponsorship, and approval of the Defendant's services by Ryan and constitutes unfair competition under federal and common law;
- (2) A preliminary injunction enjoining and restraining Defendant and its agents, servants, employees, affiliates, divisions, subsidiaries, agents, servants, and employees, and those in association with them, from using the Mark and name "Ryan & Company" or any other mark confusingly similar to the Mark in conjunction with accounting and tax consulting services or other similar services;
- (3) A permanent injunction enjoining and restraining Defendant and its agents, servants, employees, affiliates, divisions, subsidiaries, agents, servants, and employees, and those in association with them, from using the Mark and name "Ryan & Company," "Ryan & Co." or any other mark confusingly similar to the Mark in conjunction with accounting and tax consulting services or other similar services;
- (4) An award of damages and or an accounting of Defendant's profits as requested above;
- (5) An award of exemplary damages;
- (6) An award of attorney's fees;
- (7) An award of interest as provided for by law;

- (8) An award of all costs of this action; and
- (9) Such other and further relief, at law or in equity, to which Ryan may be justly entitled.

Respectfully submitted,

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